

APPLICATIONS FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-MUP/141 and 142

- Applicants** : Mr. TANG Kok Shang (Application No. A/NE-MUP/141)
Mr. TANG Sun Kwai (Application No. A/NE-MUP/142)
all represented by Mr. PANG Hing Yeun
- Sites** : Lot 573 (Application No. A/NE-MUP/141)
Lot 574 (Application No. A/NE-MUP/142)
all in D.D. 46, Loi Tung, Sha Tau Kok, New Territories
- Site Areas** : 240 m² (about) (Application No. A/NE-MUP/141)
318.9 m² (about) (Application No. A/NE-MUP/142)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Man Uk Pin Outline Zoning Plan (OZP) No. S/NE-MUP/11
- Zoning** : “Green Belt” (“GB”)
- Applications** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposals

- 1.1 The applicants, who claimed to be indigenous villagers¹ of Loi Tung, Sha Tau Kok Heung, seek planning permissions to build a proposed NTEH (Small House) on each of the application sites (the Sites) in Loi Tung, Sha Tau Kok (**Plans A-1 and A-2a**). The Sites fall within an area zoned “GB” on the approved Man Uk Pin OZP No. S/NE-MUP/11. According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ in “GB” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).
- 1.2 Details of each of the two proposed NTEHs (Small Houses) are as follows:

Total Floor Area	:	195.09 m ²
Number of Storeys	:	3
Building Height	:	8.23 m
Roofed Over Area	:	65.03 m ²

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicants claimed themselves to be indigenous villagers of Loi Tung, Sha Tau Kok Heung. Their eligibilities for Small House grants have yet to be ascertained.

- 1.3 Layouts of the two proposed Small Houses (including septic tanks) under applications No. A/NE-MUP/141 and 142 are shown on **Drawings A-1 and A-2** respectively. The applicants indicate that the uncovered areas of the Sites would be used as circulation area of their proposed Small Houses.
- 1.4 In support of the applications, the applicants have submitted the Application Forms with attachments (**Appendices Ia and Ib**) which were received on 9.4.2019.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in Part 9 of the Application Forms at **Appendices Ia and Ib** respectively. They can be summarized as follows:

- (a) the applicants claimed themselves to be indigenous villagers of Loi Tung and are eligible for the Small House grant applications;
- (b) the Sites are located within the village ‘environs’ (‘VE’) of Loi Tung and are only available lots owned by the applicants for building Small Houses;
- (c) the land available to build Small House in Loi Tung within the “Village Type Development” (“V”) zone is limited because the land within the “V” zone is mostly occupied by existing village houses, fung shui pond, drainage system and access roads. There is insufficient land in the “V” zone of Loi Tung to meet the Small House demand of the villagers;
- (d) the proposed developments are compatible with the surrounding since there are some existing village houses and approved Small House applications No. A/NE-MUP/76, 125 and 126 in the vicinity of the Sites (**Plan A-1**); and
- (e) the Sites are currently vacant without any agricultural activities. The proposed developments would not involve any trees removal or landfilling and would provide landscape features and septic tank for sewerage treatment. It is therefore anticipated that the proposed developments would not create any adverse environmental impacts to the surrounding.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicants are the “current land owners” of their respective lots. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 10 (TPB PG-No. 10) for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ is relevant to this application. The relevant assessment criteria are summarized below:

- (a) there is a general presumption against development (other than redevelopment) in a “GB” zone;

- (b) an application for new development in a “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds;
- (c) applications for NTEHs with satisfactory sewage disposal facilities and access arrangements may be approved if the application sites are in close proximity to existing villages and in keeping with the surrounding uses, and where the development is to meet the demand from indigenous villagers;
- (d) the design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment; and
- (e) any proposed development on a slope or hillside should not adversely affect slope stability.

5. Assessment Criteria

The set of Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

6. Previous Application

The Sites are not the subject of any previous application.

7. Similar Application

There is no similar application for Small House development in the “GB” zone in the vicinity of the Sites in the Man UK Pin area.

8. The Sites and Their Surrounding Areas (Plans A-1, A-2a and A-2b, and aerial photo on Plan A-3b and site photos on Plan A-4)

8.1 The Sites are:

- (a) vacant and partially hard paved with patches of wild grass (**Plan A-4**);
- (b) located in close proximity to the village cluster of Loi Tung and fall within the “VE” of Loi Tung; and
- (c) located alongside a mud track (**Plan A-4**).

8.2 The surrounding areas have the following characteristics:

- (a) predominantly rural in character where village houses are found to the north and fallow agricultural land are found to the east, south and west;
- (b) to the immediate north are village houses in “V” zone and the village proper of Loi Tung and to the further north is the pond and fallow agricultural land (**Plan A-2a**);

- (c) to the immediate east and south are fallow agricultural land;
- (d) to the further south is the vegetated hillslope in the “Conservation Area” (“CA”) zone (**Plan A-2a**);
- (e) to the immediate west are fallow agricultural land in the “Agriculture” (“AGR”) zone and a few domestic structures (**Plans A-2a and A-3b**); and
- (f) to the west of the Sites are three Small House applications No. A/NE-MUP/76, 125 and 126 within “AGR” zone quoted by the applicants (**Plan A-2a**).

9. Planning Intention

The planning intention of the “GB” zone in the Man Uk Pin area is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

10. Comments from Relevant Government Departments

10.1 The applications have been assessed against the assessment criteria in **Appendix II**. The assessment is summarised in the following table:

	Criteria	Yes	No	Remarks
1.	Within “V” zone? - The Sites - Footprints of the proposed Small Houses	- -	100% 100%	- The Sites and the footprints of the proposed Small Houses fall entirely within the “GB” zone.
2.	Within ‘VE’? - The Sites - Footprints of the proposed Small Houses	100% 100%	- -	- DLO/N, LandsD advises that the footprints of the proposed Small Houses fall within the ‘VE’ of Loi Tung.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	- Land required to meet the Small House demand in Loi Tung: about 12.73 ha (equivalent to 509 Small House sites). The outstanding Small House applications for Loi Tung are 33 ² while the 10-year Small House demand forecast for the same village is 476.

² Among the 33 outstanding Small House applications, 14 of them fall within the “V” zone and 19 straddle or outside the “V” zone. For those 19 applications straddling or being outside the “V” zone, 1 of them have obtained valid planning approval from the Board.

	Sufficient land in “V” zone to meet outstanding Small House application?	✓		- Land available to meet the Small House demand within the “V” zone of Loi Tung: about 1.80 ha (equivalent to 72 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “GB” zone?		✓	<ul style="list-style-type: none"> - There is a general presumption against development within the “GB” zone. - Director of Agriculture, Fisheries and Conservation (DAFC) advises that the Sites were vacant covered by herbs of common species according to his site inspection. While he has no adverse comment on the applications from nature conservation point of view, he advised that the planning intention of “GB” zone should be taken into account in consideration the applications. - Should the applications be approved, the applicants should be reminded to perform good site practice so as not to disturb the wooded area at the adjoining “GB” zone.
5.	Compatible with surrounding area/ development?	✓		- The proposed Small Houses are not incompatible with the surrounding rural setting and environment dominated by fallow agricultural land and village houses (Plan A-2a).
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	- Director of Fire Services (D of FS) has no in-principle objection to the applications. The applicants are reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
9.	Traffic impact?	✓		<ul style="list-style-type: none"> - Commissioner for Transport (C for T) has reservation on the applications and advises that Small House developments should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed developments are not expected to be significant, such type of developments outside the “V” zone, if permitted, will set undesirable precedent cases for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial. - Notwithstanding the above, the applications involve the construction of two Small Houses. She considers that the applications can be tolerated unless they are rejected on other grounds.
10.	Drainage impact?	✓		<ul style="list-style-type: none"> - Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the applications from public drainage viewpoint and advises that the Sites are in an area where no DSD stormwater drainage is available, the applicants are required to provide proper drainage facilities for the developments. - Should the applications be approved, an approval condition on the submission and implementation of drainage proposal is required to ensure that they will not cause adverse drainage impact to the adjacent area.
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> - CE/MN, DSD advised that the Sites are in an area where no public sewerage connection is available. - Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed developments, the applications alone are unlikely to cause major pollution.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Landscaping impact?	✓		<ul style="list-style-type: none"> - Chief Town Planner / Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has reservation on the applications from the landscape planning point of view. - According to aerial photo of 2018, the Sites are located in the rural landscape character comprises village houses and clustered tree groups. Based on her site visit in April 2019, the Sites are partially hard paved with patches of wild grass. No existing tree/significant sensitive vegetation is observed within the Sites; - It is noted from aerial photos of 2014 and 2018 (Plan A-3a and A-3b) that the Sites and the adjacent area of “GB” had been extensively modified, existing vegetation atop had been cleared prior to planning permission. The proposed developments, if approved, would set an undesirable precedent of the site modification and vegetation clearance prior to planning approval, the landscape character of the “GB” zone would be inevitably altered. The cumulative impact of such approval would further degrade the landscape quality of the “GB” zone environment. - Furthermore, there is a general presumption against development within the “GB” zone. As the Sites are situated in the inner part of the “GB” zone, should approval is given for the proposed developments, it would adversely affect the continuity, causing piecemeal formation of the “GB” zone that defeats the purpose of defining the limits of urban and sub-urban areas by natural features, and to contain urban sprawl as well as to provide passive recreational outlets.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				- Since there is no major public frontage along the site boundaries, should the Board approve the applications, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.
13.	Local objections conveyed by DO?		✓	- District Officer (North) (DO(N)) advises that he has consulted the locals. The Chairman of Sha Tau Kok District Rural Committee, the incumbent North District Council (NDC) member of subject constituency, the Indigenous Inhabitant Representative (IIR) and Resident Representative (RR) of Man Uk Pin had no comment on the applications.

10.2 Comments from the following Government departments have been incorporated in paragraph 9.1 above. Details of comments from Government departments are at **Appendix III**.

- (a) District Lands Officer/North, Lands Department;
- (b) Commissioner for Transport;
- (c) Director of Environmental Protection;
- (d) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (e) Chief Engineer/Mainland North, Drainage Services Department;
- (f) Director of Fire Services;
- (g) Chief Engineer/Construction, Water Supplies Department;
- (h) Director of Agriculture, Fisheries and Conservation; and
- (i) District Officer (North), Home Affairs Department.

10.3 The following Government departments have no comment on the applications:

- (a) Chief Highway Engineer/New Territories East, Highways Department; and
- (b) Project Manager (North), North Development Office, Civil Engineering and Development Department.

11. Public Comments Received During Statutory Publication Period

On 16.4.2019, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, seven public comments were received for each application (**Appendix IV**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the applications and a NDC member supports the applications. The remaining five comments from Kadoorie Farm and Botanic Garden, World Wide Fund for Nature Hong Kong, Hong Kong Bird Watching Society, Designing Hong Kong and an individual object to the applications mainly on the ground that the proposed developments are not in line with the general planning intention of Man Uk Pin area and the “GB” zone; land is still available within the “V” zone of Loi Tung; the Sites involved massive vegetation clearance; approval of the

applications would encourage “destroy first, build later” developments and would set an undesirable precedent for similar applications within the “GB” zone.

12. Planning Considerations and Assessments

- 12.1 The Sites fall entirely within “GB” zone. The proposed Small House developments are not in line with the planning intention of the “GB” zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within the “GB” zone. There is no strong planning justification in the submissions for a departure from the planning intention of the “GB” zone.
- 12.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Loi Tung is 33 while the 10-year Small House demand forecast for the same village is 476. According to the latest estimate by PlanD, a total of about 1.80 ha (equivalent to 72 Small House sites) of land are available within the “V” zone of Loi Tung for Small House development (**Plan A-2b**). DLO/N, LandsD advises that the proposed Small Houses fall entirely within the ‘VE’ of Loi Tung.
- 12.3 The Sites are currently vacant and partially hard paved with patches of wild grass (**Plans A-3b** and **A-4**). Whilst the proposed Small Houses are not incompatible with the surrounding rural environment, CTP/UD&L, PlanD has reservations on the applications from the landscape planning perspective. As compared to the aerial photos of 2014 and 2018, the Sites and the adjacent area of “GB” had been extensively modified. The existing vegetation atop had been cleared prior to planning permission. The proposed developments, if approved, would set an undesirable precedent of site modification and vegetation clearance prior to planning approval, the landscape character of the “GB” zone would be inevitably altered. The cumulative impact of such approval would further degrade the landscape quality of the “GB” zone. Furthermore, as the Sites are situated in the inner part of the “GB” zone, the approval of the applications would adversely affect the continuity, causing piecemeal formation of the “GB” zone that defeats the purpose of defining the limits of urban and sub-urban areas by natural features, and to contain urban sprawl as well as to provide passive recreational outlets. In this regard, the applications do not comply with the TPB PG-No. 10 for application within “GB” zone in that the proposed developments would affect the existing natural landscape. The approval of the applications would set an undesirable precedent for similar applications in the area. The cumulative effect of which would result in adverse impacts on the natural environment and landscape character of the area. DAFC has no adverse comment since the Sites were vacant covered by herbs of common species but advised that the planning intention of the “GB” zone should be taken into account in considering the applications. C for T considers that Small House developments should be confined within the “V” zone as far as possible but given that the proposed developments only involve the construction of two Small Houses, the applications could be tolerated. Other Government departments consulted, including DEP, CE/MN of DSD, HyD, WSD, FSD and CEDD, have no comment on or no objection to the applications.
- 12.4 Regarding the Interim Criteria (**Appendix II**), the footprints of the proposed Small Houses fall entirely within the ‘VE’ of Loi Tung. While land available within the “V” zone of Loi Tung is insufficient to fully meet the future demand of 476 Small Houses, it is noted that land (about 1.80 ha or equivalent to 72 Small House sites) is still available within the “V” zone to meet the 33 outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for

Small House development in recent years. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. As such, it is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services. Furthermore, the applications do not comply with the Interim Criteria in that it would cause adverse landscape impacts on the surrounding areas. The Sites and their adjacent area of “GB” had been extensively modified. The existing vegetation atop had been cleared prior to planning permission. The approval of the applications would set an undesirable precedent for similar applications in the area.

- 12.5 Regarding the previously approved applications (No. A/NE-MUP/76, 125 and 126) as quoted by the applicants in support of the current applications, it should be noted that those applications fall within “AGR” zone instead of “GB” zone and located in close vicinity to the existing village proper of Loi Tung (**Plan A-2a**). Application No. A/NE-MUP/76 was approved in 2012 before the Board’s adoption of a more cautious approach. The remaining applications No. A/NE-MUP/125 and 126 were approved by the Committee in 2017 mainly on sympathetic consideration that they were the subject of previously approved applications. The planning circumstances of these applications are different from the current applications.
- 12.6 Regarding the adverse public comments as detailed in paragraph 11, the relevant Government departments’ comments and planning assessments above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department does not support the applications for the following reasons:
- (a) the proposed development is not in line with the planning intention of “Green Belt” (“GB”) zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention of the “GB” zone;
 - (b) the proposed development does not comply with the Town Planning Board Guidelines No. 10 for Application for Development within “GB” zone under section 16 of the Town Planning Ordinance and the Interim Criteria for consideration of Application for NTEH/Small House in New Territories in that the proposed development would cause adverse landscape impact on the surrounding areas;
 - (c) land is still available within the “V” zone of Loi Tung where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructures and services; and

- (d) the approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such applications would result in adverse impacts on the natural environment and landscape character of the area.

13.2 Alternatively, should the Committee decide to approve the applications, it is suggested that the permission shall be valid until 31.5.2023, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board; and
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix V**.

14. Decision Sought

- 14.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to approve the applications, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permissions should expire.
- 14.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

15. Attachments

Appendices Ia and Ib	Application Forms with attachments received on 9.4.2019
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Detailed Comments from Relevant Government Departments
Appendix IV	Public Comments
Appendix V	Recommended Advisory Clauses
Drawings A-1 and A-2	Layout Plans
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the "V" zone of Loi Tung for Small House Development
Plan A-3a	Aerial Photo in 2014
Plan A-3b	Aerial Photo in 2018

Plan A-4

Site Photos

**PLANNING DEPARTMENT
MAY 2019**